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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/608,988	06/30/2000	Aly Aarestrup Michaelsen	042390.P8721	1437

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02/24/2004

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EXAMINER

BURGESS, BARBARA N

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/608,988

Applicant(s)

MICHAELSEN, ALY AARESTRUP

Examiner

Barbara N Burgess

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This Office Action is in response to amendments filed November 12, 2003. Claims 1-20 are presented for further examination.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-4, 7-8, 10-13, 16-17, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al. (hereinafter "Wilson", US 2001/0033650) in view of Mallory et al (hereinafter "Mallory", US 2002/0006136 A1).

As per claims 1, 7, 10, 16, Wilson discloses a method comprising:

- receiving a data signal formatted according to a data communication protocol at a first data communication platform (paragraphs [0087], [0088]);
- determining if the data communication protocol is supported by the first data communication platform (paragraphs [0087], [0088], [0090]).

Wilson does not explicitly disclose:

indicating to a second data communication platform to bypass the data signal if it is determined that the data communication protocol is supported by the first data communication platform.

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However, in an analogous art, Mallory discloses the second station ignoring the data signal if the bit is set for the first station (paragraphs [0011], [0122], [0140]).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate bypassing the data signal in Wilson allowing the first communication station to receive the data signal.

As per claims 2, 11, 17, Wilson discloses the method of claim 1, wherein the data signal is a first data signal and the data communication protocol is a first data communication protocol, the method of claim 1 further comprising:

- receiving a second data signal formatted according to a second data communication protocol at the first data communication platform (Abstract, paragraphs [0087], [0088]);
- determining if the second data communication protocol is supported by the second data communication platform (paragraphs [0087], [0088], [0090]).

Wilson does not explicitly disclose:

- Indicating to the second data communication platform to filter the data signal at if it is determined that the data communication protocol is supported by the second data communication platform.

However, in an analogous art, Mallory discloses the second station ignoring the data signal if the bit is set for the first station (paragraphs [0011], [0122], [0140]).

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Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate filtering the data signal in Wilson allowing the first communication station to receive the data signal.

As per claims 3, 8, 12, Wilson discloses the method of claim 1, wherein said receiving comprises receiving the data signal formatted according to the data communication protocol at a network processor (paragraph [0091]).

As per claim 4, 13, 19, Wilson discloses the method of claim 1, wherein said determining comprises determining if the data communication protocol is included in a pre-stored plurality of data communication protocols (paragraphs [0087], [0088], [0090]).

2. Claims 5, 14, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al. (hereinafter "Wilson", US 2001/0033650) in view of Mallory et al (hereinafter "Mallory", US 2002/0006136 A1) and in further view of Crayford et al. (hereinafter "Crayford", 5,550,803).

As per claims 5, 14, 20, Wilson, in view of Mallory, does not explicitly disclose the method of claims 1, wherein said indicating comprises tagging header information to the data signal. However, the use and advantages for using tagging header information is well known to one skilled in the relevant art at the time the invention was made as evidenced by Crayford (Abstract).

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Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate tagging header information in Wilson's method in order to append information to the data portion of the data packet during an inter-packet gap period.

3. Claims 6, 9, 15, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al. (hereinafter "Wilson", US 2001/0033650) in view of Mallory et al (hereinafter "Mallory", US 2002/0006136 A1) and in further view of Scott et al. (hereinafter "Scott", 5,953,340).

As per claims 6, 9, 15, 18, Wilson does not explicitly disclose the method of claim 1, wherein said indicating further comprises indicating to a network switch engine. However, the use and advantages for using a network switch engine is well known to one skilled in the relevant art at the time the invention was made as evidenced by Scott (column 10, lines 36-58).

Therefore, one of ordinary skill in the art at the time the invention was made would have found it obvious to implement or incorporate using a network switch engine in Wilson's method in order for the data to be filtered.

Response to Arguments

The Office notes the following arguments:

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- (a) Wilson fails to disclose or suggest a data communications platform to bypass a data signal.

In response to:

- (a) Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

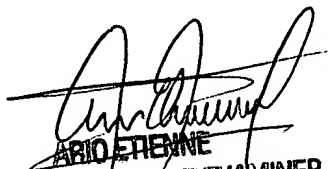
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara N Burgess whose telephone number is (703) 305-3366. The examiner can normally be reached on M-F (8:00am-4:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Ettinene can be reached on (703) 308-7562. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Barbara N Burgess
Examiner
Art Unit 2157


ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100